

AN ORDINANCE authorizing the issuance, sale and delivery of \$7,600,000.00 aggregate principal amount of Variable/Fixed Rate Demand Economic Development Revenue Bonds, Series 1989 (ND-Tech Corporation Project); authorizing the lending of the proceeds of said Bonds to ND-Tech Corporation, an Indiana corporation; approving the execution and delivery of certain documents in relation thereto; and authorizing certain other matters in relation thereto.

WHEREAS, the City of Fort Wayne, Indiana (the "Issuer"), is a municipal corporation and political subdivision of the State of Indiana authorized by the provisions of Title 36, Article 7, Chapter 12 of the Indiana Code, as amended (the "Act"), to provide for the acquisition, construction and installation of "economic development facilities," including land, machinery or equipment, all for the benefit of the health and general welfare of the Issuer and its residents.

WHEREAS, the Issuer is authorized by the Act to issue its economic development revenue bonds payable solely from the revenues and receipts derived from a "financing agreement" entered into in connection with the financing of "economic development facilities."

WHEREAS, the Issuer has made the necessary arrangements with ND-Tech Corporation, an Indiana corporation (the "Company"), for the acquisition, construction and installation of "economic development facilities" constituting a manufacturing facility, and including certain equipment to be installed therein (the "Project"), to be located in the Summit Industrial Park of the Issuer.

WHEREAS, the Fort Wayne Economic Development Commission (the "Commission") adopted a resolution on June 13, 1989, advising the Issuer to provide inducement for the financing of the Project.

1 WHEREAS, the Issuer, on the advice of the Commission,
2 adopted an inducement resolution on June 27, 1989,
3 preliminarily approving the Project, and evidencing the
4 Issuer's intent to issue economic development revenue bonds
5 and lend the proceeds of the same to the Company for the
6 financing of the Project.

7 WHEREAS, the financing of the Project will comply with
8 the purposes and provisions of the Act, and will be of benefit
9 to the health and general welfare of the Issuer and its
10 residents.

11 WHEREAS, it is proposed to pay the cost of acquiring,
12 constructing and installing the Project, and certain costs
13 relating to the financing thereof, through the issuance of
14 economic development revenue bonds of the Issuer pursuant to
15 the provisions of the Act.

16 WHEREAS, the Commission, after holding a public hearing
17 on the question of the financing of the Project, preparing and
18 placing on file a report on the Project as required by the
19 Act, considering whether the Project may have an adverse
20 competitive effect on similar facilities already constructed
21 and in operation in the Issuer, and finding that the proposed
22 financing will be of benefit to the health and general welfare
23 of the Issuer and its residents, and will be in compliance
24 with the purposes and provisions of the Act, has approved the
25 financing, including the proposed forms and terms of the
26 Bonds, the Loan Agreement, the Indenture, the Placement
27 Agreement, the Arbitrage Compliance Agreement and the Tax
28 Compliance Agreement (all as hereafter defined), and has
29 recommended to the Issuer that the Project be financed by the
30 Issuer through the issuance of its economic development
31 revenue bonds pursuant to the provisions of the Act.

32 WHEREAS, in order to finance the costs of acquiring,
constructing and installing the Project, the Issuer now
proposes to issue \$7,600,000.00 aggregate principal amount of
its Variable/Fixed Rate Demand Economic Development Revenue

1 Bonds, Series 1989 (ND-Tech Corporation Project) (the
2 "Bonds"), as authorized and permitted by the Act, and as
3 hereinafter provided.

4 WHEREAS, the proceeds of the Bonds will be loaned by
5 the Issuer to the Company pursuant to a Loan Agreement, dated
6 as of July 1, 1989, (the "Loan Agreement"), in order to carry
7 out said purposes.

8 WHEREAS, pursuant to an Indenture of Trust, dated as of
9 July 1, 1989, (the "Indenture"), between the Issuer and Fort
10 Wayne National Bank, Fort Wayne, Indiana, as trustee (the
11 "Trustee"), the Issuer will assign to the Trustee the Issuer's
12 right, title and interest in, under and to the Loan Agreement
13 (except for certain rights of the Issuer to be reimbursed and
14 indemnified by the Company, and to receive notices) as
15 security for the payment of the Bonds.

16 WHEREAS, pursuant to the Loan Agreement, the Company
17 will cause The Sanwa Bank, Limited, acting through its Chicago
18 Branch (the "Credit Bank"), to issue its Irrevocable Letter of
19 Credit (the "Letter of Credit") for the benefit of the Trustee
20 and the account of the Company.

21 WHEREAS, pursuant to a Placement and Remarketing
22 Agreement, dated as of July 1, 1989, (the "Placement
23 Agreement"), among the Issuer, the Company and First Chicago
24 Capital Markets, Inc. (the "Placement and Remarketing Agent"),
25 the Placement and Remarketing Agent will undertake to effect a
26 private placement of the Bonds and to remarket the Bonds
27 tendered for repurchase under certain circumstances.

28 WHEREAS, pursuant to an Arbitrage Compliance Agreement
29 (the "Arbitrage Compliance Agreement") and a Tax Compliance
30 Agreement (the "Tax Compliance Agreement"), each dated as of
31 July 1, 1989, and each among the Issuer, the Trustee and the
32 Company, the Issuer, the Trustee and the Company will
undertake to maintain the tax-exempt status of the Bonds for
Federal income tax purposes to the extent, and under the
circumstances, set forth therein.

1 WHEREAS, forms of the Loan Agreement, Indenture,
2 Placement Agreement, Arbitrage Compliance Agreement and Tax
3 Compliance Agreement have been presented to this meeting.

4 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
5 THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

6 SECTION 1. The financing of the cost of acquiring,
7 constructing and installing the Project, including, but not
8 limited to, the payment of certain expenses incidental to the
9 financing thereof, through the issuance and sale of the Bonds,
10 as hereinafter provided, are hereby authorized and approved,
11 and are found and determined to be of benefit to the health
12 and general welfare of the Issuer and its residents, and in
13 compliance with the purposes and provisions of the Act. It is
14 further found that the Project will not have an adverse
15 competitive effect on similar facilities already constructed.

16 SECTION 2. In order to provide funds to finance the
17 cost of acquiring, constructing and installing the Project,
18 including certain expenses incidental to the financing
19 thereof, there are hereby authorized to be issued economic
20 development revenue bonds of the Issuer in the aggregate
21 principal amount of \$7,600,000.00, which economic development
22 revenue bonds shall be designated "City of Fort Wayne,
23 Indiana, Variable/Fixed Rate Demand Economic Development
24 Revenue Bonds, Series 1989 (ND-Tech Corporation Project)."

25 The Bonds shall be issued in fully registered form and
26 in such denominations, shall be dated as of such dates, shall
27 bear interest from their dates on the unpaid principal amount
28 thereof at such rates per annum, shall mature on such dates
29 and in such principal amounts, and shall be subject to
30 repurchase on such terms as are set forth in the form of
31 Indenture presented to this meeting.

32 The Bonds shall be subject to redemption prior to
maturity at the times, under the circumstances, in the manner,
at the prices, in the amounts and with the effect set forth in
the form of Indenture presented to this meeting.

The Bonds shall be executed in the name of the Issuer by the manual or facsimile signature of the Mayor, shall be attested by the manual or facsimile signature of the City Clerk, shall have the corporate seal of the Issuer impressed or reproduced thereon, shall be authenticated by the endorsement thereon of the Trustee or United States Trust Company of New York, as tender agent (the "Tender Agent"), and on original issuance shall be delivered by the Trustee to the Placement and Remarketing Agent as agent for the original purchasers thereof. Temporary Bonds may be delivered pending preparation of definitive Bonds.

The Bonds shall be issued in compliance with and under authority of the provisions of the Act, this Ordinance and the Indenture.

SECTION 3. The Bonds and the interest thereon shall be limited obligations of the Issuer, payable solely and only from the revenues and receipts derived by the Issuer pursuant to the Loan Agreement, and shall be otherwise secured as provided in the Indenture and Loan Agreement, including, without limitation, by the Letter of Credit. The Bonds shall not in any respect be a general obligation of the Issuer, nor shall they be payable in any manner from funds of the Issuer raised by taxation.

The Bonds shall be payable at the principal corporate trust office of the Trustee in the City of Fort Wayne, Indiana, and at such other offices as may be chosen pursuant to the Indenture. The Bonds shall be payable in any medium which is then legal tender for all debts public and private.

Nothing in this Ordinance, the Loan Agreement, the Letter of Credit or the Indenture, or in any document or agreement required hereby and thereby, shall be construed as an obligation or commitment by the Issuer to expend any of its funds other than (i) the proceeds derived from the sale of the Bonds, (ii) the revenues and receipts derived from the Loan Agreement and the Letter of Credit, and (iii) any moneys

1 arising out of the investment or reinvestment of said
2 proceeds, income, revenues, receipts or moneys.

3 SECTION 4. The form, terms and provisions of the Loan
4 Agreement, the Indenture, the Placement Agreement, the
5 Arbitrage Compliance Agreement and the Tax Compliance
6 Agreement presented to this meeting are in all respects
7 approved, and the Mayor and the City Clerk of the Issuer are
8 hereby authorized, empowered and directed to execute,
9 acknowledge and deliver the Loan Agreement, the Indenture, the
10 Placement Agreement, the Arbitrage Compliance Agreement and
11 the Tax Compliance Agreement, with or without an impression of
12 the official seal of the Issuer as required thereby. The sale
13 of the Bonds to the purchaser or purchaser designated by the
14 Placement and Remarketing Agent at a price of 100% of the
15 aggregate principal amount thereof is hereby approved.

16 The Loan Agreement, the Indenture, the Placement
17 Agreement, the Arbitrage Compliance Agreement and the Tax
18 Compliance Agreement, as so executed and delivered, shall be
19 in substantially the forms now before this meeting and hereby
20 approved, with only such changes therein as shall be approved
21 by the officers of the Issuer executing the same, their
22 execution thereof to constitute conclusive evidence of their
23 approval and the approval of this Common Council of any and
24 all changes or revisions therein from the forms thereof now
25 before this meeting; and from and after the execution and
26 delivery of the Loan Agreement, the Indenture, the Placement
27 Agreement, the Arbitrage Compliance Agreement and the Tax
28 Compliance Agreement, the Mayor and the City Clerk of the
29 Issuer are hereby authorized, empowered and directed to do all
30 such acts and things, and to execute all such documents
31 (including any certifications, financing statements,
32 assignments and other instruments), as may be necessary, in
the opinion of counsel to the Issuer, to carry out and comply
with the provisions of the Loan Agreement, the Indenture, the
Placement Agreement, the Arbitrage Compliance Agreement and

1 the Tax Compliance Agreement as executed, and in any other
2 documents and instruments required to effectuate any portion
3 of the financing transaction.

4 If any of the officers of the Issuer who shall have
5 signed or sealed any of the Bonds shall cease to be such
6 officers of the City before the Bonds so signed and sealed
7 shall have been actually authenticated by the Trustee of the
8 Tender Agent, or delivered by or on behalf of the Issuer, such
9 Bonds, nevertheless, may be authenticated and delivered with
10 the same force and effect as though the person or persons who
11 signed or sealed the same had not ceased to be such officer or
12 officers of the Issuer; and also any such Bonds may be signed
13 and sealed on behalf of the Issuer by those persons who, at
14 the actual date of the execution of such Bonds, shall be the
15 proper officers to the Issuer, although at the nominal date of
16 such Bonds, any such person shall not have been such an
17 officer of the Issuer.

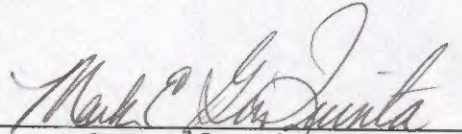
18 SECTION 5. The Mayor and the City Clerk of the Issuer
19 are hereby authorized to do all such acts and things, and to
20 execute all such documents (including any certifications,
21 financing statements, assignments and other instruments), as
22 may be necessary, in the opinion of counsel to the Issuer, to
23 carry out and comply with the purposes of this Ordinance.

24 SECTION 6. The provisions of this Ordinance are hereby
25 declared to separable, and if any section, phrase or provision
26 shall for any reason be declared by a court of competent
27 jurisdiction to be invalid or unenforceable, such declaration
28 shall not affect the validity of the remainder of the
29 sections, phrases and provisions hereof.

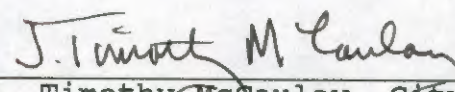
30 SECTION 7. All ordinances, orders and resolutions, and
31 parts thereof, in conflict herewith are, to the extent of such
32

PAGE 8

1 conflict, hereby repealed, and this Ordinance shall take
2 effect and be in full force immediately upon its adoption by
3 this Common Council, subject only to the approval of the
4 Mayor.

5
6 
7 Councilmember

8
9 APPROVED AS TO FORM
10 AND LEGALITY

11 
12 J. Timothy McCaulay, City Attorney
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Read the first time in full and on motion by Guadalupe, seconded by Delmar, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____, day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATED: 7-11-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Guadalupe, seconded by Delmar, and duly adopted, placed on its passage. PASSED ~~Lost~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
TOTAL VOTES	<u>9</u>			
BRADBURY	<u>✓</u>			
BURNS	<u>✓</u>			
EDMONDS	<u>✓</u>			
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
REDD	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO	<u>✓</u>			

DATED: 8-1-89

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) _____ (APPROPRIATION) _____ (GENERAL) _____ (SPECIAL) _____ (ZONING MAP) _____ ORDINANCE RESOLUTION NO. S-100-89 on the 1st day of August, 1989,

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Charles S. Reed
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 2nd day of August, 1989, at the hour of 11:00 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 4th day of August, 1989, at the hour of 2:30 o'clock P. M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

RESOLUTION NO. _____

A Resolution reporting the findings of the public hearing with respect to the proposed issuance of not to exceed \$7,600,000 aggregate principal amount of Variable/Fixed Rate Demand Economic Development Revenue Bonds, Series 1989 (ND-Tech Corporation Project), of the City of Fort Wayne, Indiana, and recommending the financing of the costs of acquiring, constructing and installing certain economic development facilities constituting a facility for the cold forming of parts for use in the transportation industry and related activities to be located within the City of Fort Wayne, Indiana, with the proceeds of such Bonds

WHEREAS, the City of Fort Wayne, Indiana (the "Issuer"), is authorized by Title 36, Article 7, Chapter 12 of the Indiana Code, as amended (the "Act"), to finance the acquisition, construction and installation of economic development facilities (as defined in the Act) in the City in order to create opportunities for gainful employment in the City, all for the benefit of the health and general welfare of the City and its residents; and

WHEREAS, the Fort Wayne Economic Development Commission (the "Commission") is charged by the Act with the duty to investigate, study and survey the need for additional job opportunities, industrial diversification and pollution control facilities in the Issuer, and to recommend action to improve or promote job opportunities, industrial diversification and availability of pollution control facilities in the Issuer; and

WHEREAS, the Commission has determined that there is a need within the Issuer for additional job opportunities, industrial diversification and pollution control facilities, and has recommended that action be taken to improve and promote job opportunities, industrial diversification and availability of pollution control facilities within the Issuer through the issuance of economic development revenue bonds pursuant to the Act by the Issuer to finance economic development facilities; and

WHEREAS, the Commission is further charged by the Act with the duty to negotiate with one or more persons concerning the terms and conditions of financing proposed economic development facilities; to consider whether the proposed economic development facilities may have an adverse competitive effect on similar facilities already constructed or operating in the Issuer; and to prepare a report briefly describing the proposed economic development facilities, estimating the public works or services, if any, which would be made necessary or desirable by the proposed eco-

conomic development facilities and the expense thereof, the total projected costs of the proposed economic development facilities, and the number of jobs and the payroll to be created or saved; and

WHEREAS, there have been presented to the Commission forms of (1) a Loan Agreement, dated as of July 1, 1989 (the "Loan Agreement"), between the Issuer and ND-Tech Corporation, an Indiana corporation (the "Company"), (2) an Indenture of Trust, dated as of July 1, 1989 (the "Indenture"), between the Issuer and Fort Wayne National Bank, Fort Wayne, Indiana (the "Trustee"), (3) a Placement and Remarketing Agreement, dated as of July 1, 1989 (the "Placement Agreement"), among the Issuer, the Company and First Chicago Capital Markets, Inc., (4) an Arbitrage Compliance Agreement, dated as of July 1, 1989 (the "Arbitrage Compliance Agreement"), among the Issuer, the Trustee and the Company, and (5) a Tax Compliance Agreement, dated as of July 1, 1989 (the "Tax Compliance Agreement"), among the Issuer, the Trustee and the Company; and

WHEREAS, the Commission, by the adoption of a resolution on June 13, 1989 (the "Inducement Resolution"), has heretofore determined that the financing by the Issuer of a portion of the costs of certain economic development facilities (the "Project") for the Company will comply with the purposes and provisions of the Act, and will be of benefit to the health and general welfare of the Issuer and its residents; and

WHEREAS, pursuant to the Inducement Resolution, the Commission has heretofore approved the financing by the Issuer of certain costs of the Project; and

WHEREAS, pursuant to the Act, the Commission has considered the application of the Company for the financing by the Issuer of the costs of the Project by the issuance of \$7,600,000 aggregate principal amount of the Issuer's Variable/Fixed Rate Demand Economic Development Revenue Bonds, Series 1989 (ND-Tech Corporation Project) (the "Bonds"), as authorized and permitted by the Act; and

WHEREAS, the Commission, in reviewing the application of the Company, has considered the need for additional job opportunities and increased diversification of economic development facilities in the Issuer, and the impact of the Project on those needs; has negotiated with the Company concerning the terms and conditions of financing the costs of the Project; has considered whether the Project would have any adverse competitive effect on similar facilities already constructed or operating in the Issuer; and has estimated the need for additional public services as a result of the Project and the expense thereof, the total costs of the Project, the number of jobs to be created or saved by the Project, and the annual payroll therefrom; and

WHEREAS, the Commission has heretofore prepared a report briefly describing the Project, estimating the public services, if any, which would be made necessary or desirable by the Project and the expense thereof, the total costs of the Project, the number of jobs to be created or saved by the Project, and the annual payroll therefrom, which report was transmitted to the Common Council of the Issuer; and

WHEREAS, the Commission has determined that the amount necessary to defray the costs of acquiring, constructing and installing the Project, including the expenses incidental thereto, will require the issuance by the Issuer of \$7,600,000 aggregate principal amount of its Bonds pursuant to the provisions of the Act; and

WHEREAS, the Commission has, in accordance with the requirements of the Act, given notice of, and held, a public hearing at which all persons who appeared at such hearing had an opportunity to express their opinions for or against the proposal to issue the Bonds:

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE FORT WAYNE ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

Section 1. That it is hereby found and determined that there were no objections to the issuance of the Bonds raised at the public hearing.

Section 2. That it is hereby found and determined that the financing of the costs of the Project will create opportunities for gainful employment, and that the financing of the costs of the Project will be of benefit to the health and general welfare of the Issuer and its residents, and that the financing of the costs of the Project complies with the purposes and provisions of the Act.

Section 3. That it is hereby found and determined that the Project will not have an adverse competitive effect on similar facilities already constructed or operating in the Issuer.

Section 4. That the financing of the costs of the Project through the issuance of Bonds is hereby approved and recommended to the Issuer in order to promote the purposes of the Act.

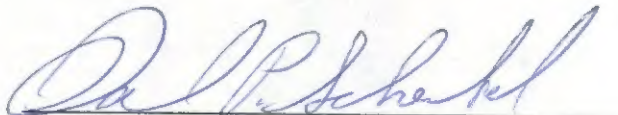
Section 5. That the forms and terms of the Loan Agreement, the Indenture, the Placement Agreement, the Arbitrage Compliance Agreement and the Tax Compliance Agreement, and the form and terms of the Bonds set forth in the Indenture, are hereby approved.

Section 6. That all resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby repealed, and this Resolution shall be in full force and effect immediately upon its adoption.

Section 7. That the Secretary of the Commission is hereby directed to transmit this Resolution to the Common Council of the Issuer.

Section 8. That this Resolution shall take effect immediately.

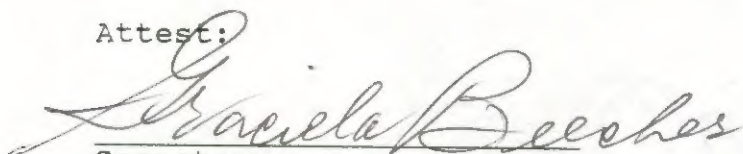
July 10, 1989


President

Vice Pres.

(SEAL)

Attest:


Secretary

Admn. Appr. _____

DIGEST SHEET

J 89-07-28

TITLE OF ORDINANCE ORDINANCE AUTHORIZING FORT WAYNE TO ISSUE ITS
"CITY OF FORT WAYNE, INDIANA, ECONOMIC DEVELOPMENT REVENUE BONDS
SERIES 1989 (ND-TECH CORP.)
DEPARTMENT REQUESTING ORDINANCE ECONOMIC DEVELOPMENT

SYNOPSIS OF ORDINANCE ORDINANCE AUTHORIZES ISSUANCE OF CITY OF FORT WAYNE

ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 1989 (ND-TECH CORP.) IN

TOTAL. PRINCIPAL AMOUNT OF \$7,600,000.00. PROCEEDS OF BONDS WILL

BE LOANED TO ND-TECH CORP. TO FINANCE THE COST OF ACQUISITION

OF NEW MANUFACUTRING EQUIPMENT AND THE CONSTRUCTION OF A 50,000 sq.

ft. BUILDING LOCATED IN SUMMIT INDUSTRIAL PARK. ORDINANCE FURTHER ^

AUTHORIZES CITY TO ENTER INTO TRUST INDENTURE AND LOAN AGREEMENT IN

CONNECTION WITH THE ISSUANCE OF THE ABOVE-REFER ENCED BONDS.

EFFECT OF PASSAGE OPPOSITE OF ABOVE

EFFECT OF NON-PASSAGE THIS PROJECT DOES NOT REQUIRE THE EXPENDITURE OF
ANY CITY FUNDS.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) _____

ASSIGNED TO COMMITTEE (PRESIDENT) _____

DP
Make
JANET

BILL NO. S-89-07-28

REPORT OF THE COMMITTEE ON FINANCE

MARK E. GIAQUINTA, CHAIRMAN
THOMAS C. HENRY, VICE CHAIRMAN
BRADBURY, SCHMIDT, BURNS

WE, YOUR COMMITTEE ON Finance TO WHOM WAS

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) authorizing the issuance,
sale and delivery of \$7,600,000.00 aggregate principal amount of
Variable/Fixed Rate Demand Economic Development Revenue Bonds,
Series 1989 (ND-Tech Corporation Project); authorizing the
lending of the proceeds of said Bonds to ND-Tech Corporation, an
Indiana corporation; approving the execution and delivery of
certain documents in relation thereto; and authorizing certain
other matters in relation thereto

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~)

DO PASS

DO NOT PASS

ABSTAIN

NO REC

Mark E. Giaquinta

Thomas C. Henry

Bradbury, Schmidt, Burns

DATED:

8-1-85.

Sandra E. Kennedy
City Clerk